

MODEL GRANT AGREEMENT

Public Interest Energy Research (PIER) Energy Innovations Small Grant (EISG) Program

1. **GRANT NUMBER:** _____

2. This Agreement is entered into this _____ Day of _____, in the year _____, by
and between the undersigned parties.

3. **PURPOSE:** The Awardee agrees to perform energy related concept feasibility research and development under the State of California Energy Commission's Public Interest Energy Research (PIER) Energy Innovations Small Grant (EISG) Program as specified in Exhibit A, Grant application, which is hereby incorporated to serve as the Work Statement.

4. **PERIOD OF PERFORMANCE:** _____ Months **Start Date:** _____ **End Date:** _____

5. **GRANT AMOUNT:** \$ _____ **Total** **Allocated for Equipment:** \$ _____

This Agreement has been executed by the parties hereto, upon the date first above written.

6.	Name of organization receiving services:
San Diego State University Research Foundation	
Referred to as:	
Foundation	
Authorized Signature:	
Printed name of person signing:	
Michele G. Goetz, Director	
Sponsored Research Administration	
SDSU Research Foundation	
Address	
5250 Campanile Drive, MC 1934	
San Diego, CA 92182-1934	

7.	Name of organization providing services:
Referred to as:	
Awardee	
Authorized signature:	
Printed name of person signing:	
Address	

Points of contact.

8.	Single point of contact for Foundation
EISG Program Administrator	
Address:	
5250 Campanile Drive, MC 1858	
San Diego, CA 92182-1858	
Contact information:	
Phone:	
Fax:	
Email:	

9.	Technical point of contact for Awardee::
Address:	
Contact information:	
Phone:	
Fax:	
Email:	

Approved Agreement Modifications (Supersedes any conflicting terms or conditions contained in this Agreement)

10.

ENERGY INNOVATIONS SMALL GRANT (EISG) AWARD

NOW THEREFORE, the parties do mutually agree as follows:

ARTICLE I. SCOPE OF WORK AND PURPOSE.

The Awardee's Grant application is incorporated into this Agreement by reference and is provided in Exhibit A. The Grant application provides the scope of work, purpose, task schedule and list of deliverables. The approved Grant budget, which supersedes the proposed budget in the Grant application, is located in Exhibit B. The Grant application manual that was effective at the time of the Grant application was submitted is incorporated by reference into this Agreement, however, the Grant Agreement supersedes the Grant application manual should a contradiction exist between the two documents.

The Awardee agrees to undertake, carry out, and complete, in a competent manner, all of the work and services set forth in Exhibit A (Tasks, Schedule and Deliverables), and to operate within the financial constraints of the approved Grant budget, as set forth in Exhibit B. Five copies of the Final Report, which is a required deliverable, shall be delivered in a format as specified in Exhibit D.

ARTICLE II. STATUS OF PARTIES.

The Awardee understands that this Agreement is between the Foundation and the Awardee and that it does not bind, nor does it purport to bind, San Diego State University or the State of California.

The California Energy Commission (hereafter referred to as the Commission) contracted with the Trustees of the California State University to administer the EISG Program. The Trustees of the California State University contracted with the Foundation to perform the operational duties associated with administering the EISG Program. The Commission is the state agency responsible for setting EISG program policy and overseeing the State of California's interests as they relate to the EISG Program. Therefore, certain specified rights to the Foundation are also extended to the Commission and/or to the State of California.

The Awardee is acting as an independent contractor in the performance of work under this Award, and shall be solely responsible for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act or omission of its employees or agents in connection with the performance of work under this Award.

ARTICLE III. KEY PERSONNEL.

Awardee's key personnel for this project, to include the Principal Investigator and any team members, are identified in Form E of the Grant application located in Exhibit A. The Awardee's designated signature authority, listed in item 7 of the cover page, shall serve as the Awardee's contract point of contact with the Foundation and the Awardee's Principal Investigator/Project Manager, listed in item 9 of cover page, shall serve as the Awardee's technical point of contact

with the Foundation regarding project schedule, performance, budgeting and deliverables. Awardee shall not replace or substitute another individual as the designated technical point of contact without the expressed written prior approval of the EISG Program Administrator.

The Foundation's authorized contract agent is listed in item 6 on the cover page.

The EISG Program Administrator, listed in item 8 on the cover page, shall serve as the Foundation's single point of contact for the Awardee regarding project schedule, performance, budgeting, deliverables and contract changes.

ARTICLE IV. PERIOD OF PERFORMANCE.

The period of performance of this Award is specified in item 4 on the cover page.

ARTICLE V. COMPENSATION AND MAXIMUM COST.

In full and complete consideration of Awardee's performance in accordance with Article XXIII, Awardee shall be reimbursed for allowable costs incurred under this Agreement not to exceed the maximum amount specified in item 5 on the cover page.

Award expenditures shall be in accordance with the approved budget located in Exhibit B. The Awardee may shift funds between the budget line items that are boxed in bold in the "Approved Funding" column of Exhibit B, provided no line item increases more than 25% from the original approved budget or \$1000, whichever is larger, except for the Indirect line percentage may be reduced but not increased. Line item increases greater than the specified threshold amount are not allowed without expressed written consent from the EISG Program Administrator. In no event will the total award amount be increased as a result of a shift in funds between budget line items.

ARTICLE VI. PAYMENT.

Payment to Awardee shall be made within thirty (30) days upon receipt and approval by the EISG Program Administrator of an itemized invoice. The Foundation agrees to reimburse the Awardee for allowable costs up to the maximum amount shown in item 5 on the cover page.

Reimbursement invoices shall be mailed directly to the EISG Program Administrator for processing and will comply with the following requirements before payment is approved:

- Provide an original and two copies of an itemized invoice.
- Invoice covers a period no shorter than one month and no greater than three months.
- Invoice is submitted within 30 days of the end of the invoice period except for the final invoice, which can be submitted up to 60 days following the end date of the Grant Agreement. The final invoice must to be clearly labeled "FINAL INVOICE".
- Original invoice is signed by individual Awardee or chief financial officer/designee of an organization/business.
- Invoice submitted with the information specified in Exhibit E.

- Invoices can only include expenses incurred within the term of the Grant Agreement. To invoice for project expenses incurred after the end of the term requires a no cost term extension of the Grant Agreement.

Foundation may withhold payment on an invoice if the Awardee is in default on any progress reports. Progress reports will be considered in default if not received within thirty (30) calendar days following the maximum allowed reporting period interval of three (3) months. Progress reports must conform to the format specified in Exhibit C in order to satisfy the deliverable requirement.

\$5,000 will be withheld pending delivery of a Final Report submitted in accordance with Exhibit D, with invoice and any other outstanding deliverables listed on Form C of the Grant application contained in Exhibit A.

A final invoice must be received by the Foundation no later than 60 days after the end of the period of performance specified in item 4 on the cover page. On receipt of the final invoice designated by the Awardee as the "Final Invoice" and upon compliance by the Awardee with all provisions of this Agreement, the Foundation shall promptly pay to the Awardee any balance of allowable costs.

All payments made under this Award shall be considered provisional and subject to audit under Article VIII.

The Awardee agrees that any refunds, rebates, credits, or other amounts received by the Awardee that are attributable to costs for which the Awardee has been reimbursed, shall be paid or credited back to the Foundation.

ARTICLE VII. FINANCIAL MANAGEMENT SYSTEMS.

Awardee shall maintain acceptable financial management systems during the term of the Award. Such systems shall provide: (a) accurate, current and complete disclosure of the financial activity under this Award, (b) separate account for Award funds, (c) effective control over and accountability for all funds, property and other assets, (d) comparison of actual outlays with budgeted Award amounts, (e) consistency with the applicable regulatory cost principles, and (f) accounting records supported by source documentation.

ARTICLE VIII. RECORDS RETENTION AND AUDIT.

The State of California and the Foundation, its agents, or any of its duly authorized representatives shall have the right to examine and audit directly pertinent books, documents, papers and records of Awardee including financial transactions and supporting documents, general accounting systems, internal controls, management practices, policies and procedures pertaining to the performance of this Award. Awardee agrees to allow the auditor(s) access to such records at any reasonable time with prior notice and to allow interviews of any employees who might reasonably have information related to such records. Such books, documents, papers

and records shall be retained by the Awardee for a period of three years following the date of the final payment under this Award.

ARTICLE IX. EQUAL OPPORTUNITY/NON-DISCRIMINATION.

Awardee shall comply with the provisions of Title VII of the Civil Rights Act of 1964 (42 USC 2000 as amended by the Equal Opportunity Act of March 24, 1972, Public Law No. 92-261) in that it shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment; or discriminate in any way which would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, handicap, medical condition, or marital status.

Awardee shall ensure that services and benefits are provided without regard to race, color, religion, sex, age, or national origin in accordance with Title VII of the Civil Rights Act of 1964. Awardee shall comply with Section 503 of the Rehabilitation Act of 1973, as amended (29 USC 794), pertaining to the prohibition of discrimination against qualified handicapped persons.

ARTICLE X. UTILIZATION OF SMALL BUSINESS

Awardee shall make a reasonable effort to include the participation of small businesses in the performance of work under this Award.

ARTICLE XI. HOLD HARMLESS.

Awardee shall defend, indemnify and hold harmless the Foundation, San Diego State University and the State of California, the Trustees of the CSU, its officers, employees and agents from and against any and all liability, loss, expense, attorney's fees, or claims for injury or damages arising out of the performance of this Award but only in proportion to and to the extent such liability, loss, expense, attorney's fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Awardee, its officers, agents or employees.

The Foundation and the State of California shall defend, indemnify and hold harmless the Awardee, its officers, employees and agents from and against any and all liability, loss, expense, attorney's fees, or claims for injury or damages arising out of the performance of this Award but only in proportion to and to the extent such liability, loss, expense, attorney's fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Foundation, its officers, agents or employees.

ARTICLE XII. INSURANCE.

Awardee shall, procure and maintain throughout the term of this Award, the following insurance coverage or this Award shall automatically become null and void:

- 1) Comprehensive General Liability insurance providing coverage against claims for Bodily Injury or Death, and Property Damage. Such insurance shall provide protection to the limit of not less than \$1,000,000 combined single limit for Bodily Injury and Property Damage.

- 2) Workers' Compensation insurance statutory coverage including Employer's Liability with limits of not less than \$1,000,000. (Note: This only applies to applicants that have employees)
- 3) Comprehensive Automobile Liability with limits not less than \$1,000,000 each occurrence, combined single limit for Bodily Injury and Property Damage, including coverage for owned, non-owned and hired vehicles.

State operated academic institutions that are self-insured need to submit a Certificate of Self-Insurance and documentation showing the limits of insurance. The Foundation will accept the self-insurance coverage provided by California State operated academic institutions.

ARTICLE XIII. STOP WORK AND TERMINATION.

1) Stop Work

The Foundation or Commission may, at any time, by written notice to Awardee, require Awardee to stop all or part of the work tasks in this Agreement. Stop Work Orders may be issued for reasons such as a project exceeding budget, standard of performance, out of scope of work, delay in project schedule, misrepresentations, the Awardee its principles or key personnel can no longer certify to the requirements of Article XV, and the like. If the Commission or Foundation issues a Stop Work Order, the Commission or Foundation is not precluded from also terminating this Award pursuant to the following subsection 2.

- a. Compliance – Upon receipt of such stop work order, Awardee shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.
- b. Equitable Adjustment – An equitable adjustment shall be made by the Foundation based upon a written request by Awardee for an equitable adjustment. Such adjustment request must be made by Awardee within thirty (30) days from the date of receipt of the stop work notice.
- c. Revoking a Stop Work Order – Awardee shall resume the stopped work only upon receipt of written instructions from the Commission or Foundation.

2) Termination

The Foundation or Commission may terminate this Award for cause and at its option, at any time upon the giving of thirty (30) days prior written notice to the Awardee. Said notice shall be given to the individuals listed in items 7 and 9 on the cover page. In the event of termination, the Awardee shall be entitled to payment for acceptable and allowable work performed under this Award, and for all uncancellable obligations made in connection with such work, through the date of termination but in no event shall payment exceed the maximum payable. Early termination of this Award does not release Awardee from compliance with appropriate provisions of this Award, i.e., Article VIII Records Retention and Audit.

Termination for cause would be based on one or more of the following reasons:

- The Grant project has significantly deviated from the scope of work or schedule described in the Grant application located in Exhibit A without written Program Administrator approval, or
- The Awardee fails to show sufficient evidence of progress in its progress reports or fails to submit any progress reports over a six-month period, or
- The project is sufficiently over budget to warrant a rescope of the proposed work and the Awardee is unable to propose a revised Statement of Work that is acceptable to the Program Administrator, or
- The Awardee, its principals or key personnel can no longer certify to the requirements of Article XV.

In the event the Awardee is in default, the Foundation or Commission may terminate this Award upon five (5) days written notice to the individuals listed in items 7 and 9 on the cover page. In this event, the Foundation shall pay the Awardee only the reasonable value of the satisfactory services theretofore rendered to the Foundation but in no event shall payment exceed the maximum payable. It is understood and agreed, however, that in the event Awardee is in default upon any of its obligations hereunder at the time of termination, Foundation shall be entitled to pursue any rights or remedies which Foundation may have against Awardee by reason of such default, and Foundation may withhold any payments to the Awardee for the purpose of set-off until such time as the exact amount of damages may be determined.

In the event the Awardee is adjudged bankrupt, the Foundation may terminate this Agreement and all further rights and obligations hereunder, by giving five (5) days written notice to the individuals listed in items 7 and 9 on the cover page. The Foundation shall have lien rights on equipment purchased with Grant funds and shall retain lien rights until the equipment is returned to the EISG Program Administrator or other specified location.

In the event that the Commission terminates its Agreement with CSU, the Foundation shall assign this Grant to the Commission, provided it is still active. The Commission, in this event, retains the same rights as the Foundation, including the ability to terminate the Agreement for cause or default.

ARTICLE XIV. DISPUTES.

In the event of a dispute between the parties, the parties agree to negotiate a settlement in good faith. Should this fail to resolve the dispute, the parties shall be free to pursue resolution through mediation where a mutually agreed upon neutral third party assists the disputants in reaching a negotiated settlement, but has no authority to bind either party to any resolution.

ARTICLE XV. DEBARMENT/SUSPENSION CERTIFICATION.

Awardee certifies, by signing this Agreement, that to the best of the Awardee's knowledge and belief, that it, its principals and key project personnel:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from contracting with any Federal or State department or agency;
- 2) Have not within a three-year period preceding this Agreement been convicted of a, or had a civil judgment rendered against them, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, larceny, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification or any felony; and
- 4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

The certification in this clause is a material representation of fact upon which reliance was placed when the Foundation determined to enter into this Agreement. If it is later determined that the Awardee knowingly rendered an erroneous certification for themselves or a subsequent subcontractor, in addition to other remedies available, the Foundation may terminate this Agreement for default.

The Awardee shall provide written notice to the EISG Program Administrator within five (5) days if at any time the Awardee learns that its certification was erroneous when submitted or has become erroneous during the term of the grant project by reason of changed circumstances with regard to any event listed in items 1 - 4 above. The Program Administrator, upon notification of a change in circumstance, may terminate the award for cause. The Awardee further agrees to include the above debarment/suspension certification in any subcontract Agreements the Awardee negotiates as part of the project covered by this Agreement. The knowledge and information of Awardee in assessing a subcontractor's compliance is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

ARTICLE XVI. DRUG-FREE WORKPLACE CERTIFICATION.

Awardee certifies, by signing this Agreement, that the Awardee and the Awardee's subcontractors will maintain a drug-free workplace by performing the following activities:

- 1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- 2) Establishing a drug-free awareness program to inform employees about:
 - a. The danger of drug abuse in the workplace;
 - b. The Awardee's policy of maintaining a drug-free workplace;

- c. Any available drug counseling, rehabilitation, and employee assistance programs; and,
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- 3) Making it a requirement that each employee to be engaged in the performance of this Agreement be given a copy of the statement required by paragraph 1;
 - 4) Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the Grant, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
 - 5) Notifying the EISG Program Administrator within ten (10) days after receiving notice under subparagraph (4b) from an employee or otherwise receiving actual notice of such conviction;
 - 6) Taking one of the following actions, within thirty (30) days of receiving notice under subparagraph (4b), with respect to any employee who is so convicted:
 - a. Taking appropriate personnel action against such an employee, up to and including termination, or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - 7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1 – 6.

ARTICLE XVII. INTELLECTUAL PROPERTY PROVISIONS.

- 1) Awardee Rights, Responsibilities and Indemnity
 - a. Patent rights for any “Subject Invention” (defined as any invention that is wholly conceived and reduced to practice in the performance of this Grant), whether actually patented or unpatented, will be the property of the Awardee whose employees or researchers are inventors of such inventions pursuant to U.S. Patent law, subject to the State of California obtaining a royalty-free, no-cost, nonexclusive, irrevocable, nontransferable, worldwide, perpetual license to use or have practiced such rights for or on behalf of the State of California for government purposes to the degree that is consistent with Federal Law. If a patent application for Subject Inventions is submitted within three (3) years of the start date of the Grant Agreement, Awardee will fill out a Uniform Commercial Code (UCC.1) Financing Statement that documents the State of California’s use license, and submit the UCC.1 to the EISG Program Administrator for processing. The Commission Contract Manager will review the UCC.1 for complete

information and file the completed UCC.1 with the Secretary of State's Office. For subject patents, Awardees must obtain Agreements to effectuate the California government use license with all persons or entities obtaining ownership interest in such patent rights, except for agreements made with the U.S. DOE, which is exempt from this requirement.

The Awardee will disclose to the SDSU Foundation on a confidential basis all inventions that were conceived and first actually reduced to practice in performance of this Grant.

Awardee and all persons and/or entities obtaining an ownership interest in invention(s) shall include within the specification of any United States patent application, and any patent issuing thereon covering a Subject Invention, the following statement:

“This invention was made with State of California support under California Energy Commission Grant number _____. The Energy Commission has certain rights to this invention.”

- b. In the event software that is not a deliverable is developed under this Grant, Awardee shall have the right to copyright and /or patent such software and grants the State of California a royalty-free, no-cost, nonexclusive, irrevocable, nontransferable, world-wide, perpetual license to produce and use for governmental purposes the software, and its derivatives and upgrades that may be developed by the authors within 42 months following the termination or expiration of this Grant.
- c. All copyrightable material first produced under this Grant shall be owned by the Awardee and the Awardee agrees to grant to the State of California a royalty-free, no-cost, nonexclusive, irrevocable, nontransferable, worldwide, perpetual license to produce translate, publish, use and dispose of, and to authorize others to translate, publish, use and dispose of all copyrightable material first produced or composed in the performance of this contract.

Awardee will apply copyright notices to all Deliverables using the following form or such other form as may be reasonably specified by the Foundation.

“©[Year of first publication of deliverable], [copyright holder]. All Rights Reserved.”

- d. Awardee shall provide the EISG Program Administrator with a copy of all technical, generated and deliverable data produced under this Grant Agreement. Awardee does not have to copy and submit data the EISG Program Administrator has identified as being unusable to the EISG Program Administrator and the PIER program. For instance, some data may not warrant routine copying and shipping because the raw data is too disaggregated or voluminous for practical application. Retention of such data at the Awardee's facility for inspection, review and possible copying by the EISG Program Administrator is expected to be a more efficient use of the EISG Program Administrator time and efforts.
- e. Awardee will defend and indemnify the Foundation and the State of California from and against any claim, lawsuit or other proceeding, loss, cost, liability or expense (including court costs and reasonable fees of attorneys and other professionals) to the extent arising out of any third party claim solely arising out of the negligent or other tortious act(s) or

omission(s) by the Awardee, its employees, or agents, in connection with intellectual property claims against either deliverables or the Awardee's performance under this Agreement.

- f. In no event will the Foundation be liable for any special, incidental, or consequential damages based on breach of warranty, breach of contract, negligence, strict tort, or any other legal theory for the disclosure of Awardee's confidential information, even if the Foundation has been advised of the possibility of such damage. Damages that the Foundation will not be responsible for include, but are not limited to, loss of profit; loss of savings or revenue; loss of goodwill; loss of use of the product or any associated equipment; cost of capital; cost of any substitute equipment, facilities, or services; downtime; the claims of third parties including customers; and injury to property.

2) Foundation, Commission and State of California Rights and Responsibilities

- a. The Commission retains the right to file a Uniform Commercial Code (UCC.1) Financing Statement on all Subject Inventions for which a patent application is submitted within three (3) years of the start date of the Grant Agreement in order to document the State of California's license to use such items for governmental purposes. Previously documented (whether patented or unpatented under the patent laws of the United States of America or any foreign country) inventions are exempt from this provision.
- b. The State of California shall not purposefully enter into competition with an Awardee's Licensee or take affirmative actions intended to effectively destroy the commercial market where a Licensee has introduced a licensed product.
- c. Data provided to the EISG Program Administrator by Awardee, which data the EISG Program Administrator has not already agreed to keep confidential and which Awardee seeks to have designated as confidential, or is the subject of a pending application for confidential designation, shall not be disclosed by the EISG Program Administrator except as provided in Title 20 CCR, Sections 2506 and 2507 (or as they may be amended), unless disclosure is ordered by a court of competent jurisdiction.
- d. It is the State of California's intent to use and release project results such as deliverables and data in a manner calculated to further PIER while protecting proprietary or patentable interests of the parties. Therefore, the EISG Program Administrator agrees not to disclose confidential data or the contents of reports containing data considered by Awardee as confidential, without first providing a copy of the disclosure document for review and comment by Awardee. Awardee shall have no less than ten (10) working days for review and comment and, if appropriate, to make an application for confidential designation on some or all of the data. The EISG Program Administrator shall consider the comments of Awardee and use professional judgment in revising the report, information or data accordingly. However, if confidentiality is claimed such that the non-proprietary portion of the report does not effectively communicate the significance and reliability of the research results, the Program Administrator may withhold the remaining \$5,000 pending receipt of an acceptable revised final report.

ARTICLE XVIII. ASSIGNMENT.

This Award is not assignable by Awardee either in whole or in part, nor shall the Awardee further contract for the performance of any of its obligations hereunder, without the prior written consent of the Foundation.

ARTICLE XIX. LAWS GOVERNING.

This Award shall be governed by and construed in accordance with the laws of the State of California.

ARTICLE XX. WAIVER

No waiver of any breach of this Award shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Award shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of the Foundation to enforce at any time any of the provisions of this Award, or to require at any time performance by Awardee of any of the provisions, shall in no way be construed to be a waiver of those provisions, nor in any way affect the validity of this Award or any part of it or the right of the Foundation to thereafter enforce each and every such provision.

ARTICLE XXI. ENTIRE AGREEMENT.

This Award and the Attachments hereto contain the entire Agreement of the parties, and no representation, provision, warranty, term, condition, promise, duty or liability, expressed or implied, shall be binding upon or applied to either party, except as herein stated. No amendment or modification of any term, provision or condition of this Award shall be binding or enforceable unless in writing and signed by each of the parties.

ARTICLE XXII. NOTICES.

All notices to any party hereunder shall be in writing, signed by the party giving it, and shall be sufficiently given or served, if sent by registered mail addressed to the parties at their addresses indicated on cover sheet of this Agreement.

ARTICLE XXIII. STANDARD OF PERFORMANCE

Awardee shall be responsible in the performance of work for exercising the degree of skill and care required by customarily accepted good professional practices and procedures.

ARTICLE XXIV. SOURCE AND LIMITATION ON FUNDS

Funding for this Agreement comes from State funds that are dependent upon appropriation by the State Legislature and availability as determined by the Governor's Budget. Availability of the funds, which are the basis for this Agreement, may expire or depend upon an extension of the availability periods. The Foundation cannot warrant or guarantee that such extensions will be

approved. The Commission has the option to cancel this Agreement under the termination clause (Article XIII) or to amend the Agreement to reflect any reduction of funds.

ARTICLE XXV. AMENDMENTS

No alteration or variation of the terms of this Award shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or Agreement not incorporated herein, shall be binding on any of the parties hereto. Other than as specified herein, no document or communication passing between the parties hereto shall be deemed as part of this Agreement.

ARTICLE XXVI. ALLOWABLE EXPENSES.

Only those costs identified in the approved Grant budget contained in Exhibit B shall be authorized.

1) Purchase of Equipment

For the purpose of this Agreement, equipment is defined as any tangible non-expendable property with an acquisition cost of \$5,000 or more per unit.

Equipment that was properly justified in the budget narrative of the Grant application and listed on the approved budget in Exhibit B will be procured exclusively by the EISG Program Administrator with drop shipment to the Awardee's address. Awardee shall not use Grant funds to purchase equipment directly. All equipment purchased shall be subject to the following conditions:

- a. Title to all non-expendable equipment purchased with Grant funds shall remain with the Commission.
- b. Whichever party (Foundation or Awardee) is in possession or control of equipment purchased for a Grant project shall assume all risk for maintenance, repair, destruction and damage to equipment.

2) Final Disposition of Equipment

If equipment was purchased as part of the approved budget in Exhibit B, then upon termination of the Agreement the Commission may exercise the following options:

- a. Request that such equipment be returned to the Commission or be transferred to a California academic institution with any costs incurred for such return to be borne by the Commission.
- b. Transfer ownership of equipment to Awardee provided the Awardee:
 - Submits a written request for ownership.
 - Can provide evidence that the equipment would be used for continued energy related research or for academic purposes.
- c. Allow Awardee to purchase such equipment for an amount not to exceed the residual value of the equipment upon termination of the Agreement.

3) Travel Guidelines

- a. **Expense Reimbursement**
Awardees are only authorized travel that is listed in the approved budget. The University of California and California State University shall use their organization's travel guidelines for reimbursement of travel expenses and per diem. Use of Grant funds for conference travel is allowed only if a paper is presented that is directly related to the Grant project and then only the team member delivering the paper is authorized reimbursement. For conference travel, attach a copy of the paper that was presented to the next Progress Report.
- b. **Situations Requiring Program Administrator Authorization**
Travelers must request advance approval from the Program Administrator for the following:
 - 1. Authorization to expense conference registration fees greater than \$500.
 - 2. Authorization to exceed \$1500 in travel expenses for a single individual in any one trip.
 - 3. Authorization to expense travel outside the continental United States.
 - 4. Authorization for travel that was not included in the approved budget. Requires written request with projected cost and budget impact.

**EXHIBIT A
GRANT APPLICATION**

(Attached by Program Administrator at time of Agreement execution)

**EXHIBIT B
APPROVED BUDGET**

(Generated by Program Administrator and attached at time of Agreement execution)

**EXHIBIT C
EISG PROGRESS REPORT FORMAT**

**EXHIBIT D
FINAL REPORT INSTRUCTIONS**

**EXHIBIT E
EISG PROJECT – REIMBURSEMENT INVOICE
(Sample Format)**

EXHIBIT C

ENERGY INNOVATIONS SMALL GRANT (EISG) PROGRESS REPORT FORMAT

TOP OF COVER PAGE:

- Progress Report (needs to be labeled as a progress report)
- Grant Number (as indicated on cover page of Grant Agreement)
- Project Title (as indicated on proposal – Exhibit A of Grant Agreement)
- Reporting Period (show start and end dates for reporting period)
 - The maximum allowed reporting period is 3 months.
 - Progress reports are considered delinquent if not received within 30 days of the end of the maximum allowed reporting period.
- Name of Principal Investigator

PROJECT STATUS SUMMARY:

- **Schedule Status:** Based on the approved schedule contained in the Grant Agreement, indicate if you are on schedule and capable of completing all tasks identified in the Statement of Work. If you are behind schedule indicate by how much, the reasons for the delay and what actions you plan to take as a result to ensure the primary project objectives are met within the term of the Grant contract.
- **Budget Status:** Based on the approved budget contained in the Grant Agreement, indicate if you are within budget. If you are over budget indicate by how much, the reasons why and the impact this will have on the project. Changes to the scope of work due to budget considerations or change in research strategy must be negotiated with and approved by the Program Administrator.
- **Percent Complete:** List in a table the primary tasks contained in the Statement of Work and report the cumulative percent complete for each task listed.

WORK PROGRESS: Report the following information on work that was performed in this reporting period:

- List each primary task in which work was performed and describe the work completed.
- Describe any unexpected problems encountered and their impact.
- Include or attach supporting documents such as diagrams, CAD drawings, or photos of prototype devices, test setups or laboratory/workshop settings.
- Attach test plans, test results, site surveys, subcontractor reports etc.

ASSESSMENT OF OVERALL PROJECT OBJECTIVES: Identify the project's primary measurable technical objective(s) (e.g., achieve NO_x emissions of 5ppm). Based on the work completed to date, rate each objective on the level of risk associated with its technical and commercial feasibility. List any key results that support your assessment.

REPORT SUBMISSION: Submit reports via email attachment to the Program Administrator when practical. If submitted electronically there is no need to send a hard copy. **Highlight any information that is proprietary that you do not want released.**

EXHIBIT D

Final Report Instructions

Purpose

The objective of the final report is to create a public interest RD&D knowledge base and to disseminate information allowing citizens, businesses, government and other entities to make informed decisions concerning energy technologies and services.

Style Instructions

Font Type: Times Roman or Palatino Linotype

Font Size: 12 pt

Margins: 1-inch minimum

Headers/Footers: No headers. Use continuous page number footer from front to back except for front matter, which is numbered with roman numerals. Do not number paragraphs.

Bindings: Spring clips only

Copies: Draft Report (1 electronic MS Word copy emailed)

Final Report (2 paper copies, 1 electronic MS Word copy emailed or on disk)

Paper Copies: Printed double sided

Final Report Outline

Cover Page (*example provided*)

Legal Notice (*provided*)

Acknowledgement Page (*optional*)

Table of Contents (*example provided*)

Abstract (*250 words*)

Executive Summary (*2-3 pages*)

Introduction (*body of main report 12-18 pages*)

Project Objectives

Project Approach

Project Outcomes

Conclusions

Recommendations

Public Benefits to California

References

Glossary

Appendices (*no limit specified*)

Development Status Questionnaire

Detailed guidelines for each of the sections listed in the outline above are posted on our web site at www.energy.ca.gov/research/innovations under “[Awardee Resources](#)”. Please refer to the “**Final Report Instructions**” document. If you do not have Internet access, you need to request a paper copy of this document. Since this document is updated over time it is important to obtain the most current version posted on the web prior to starting the final report.

After reviewing the final report instructions please send Michelle McGraw (mmcgraw@projects.sdsu.edu) an outline of the Final Report that as a minimum identifies the Project Objectives, Project Outcomes, Conclusions and Recommendations that will be reported on in the report. Then call Michelle McGraw (619) 594-3293 to discuss the outline and to obtain answers to any questions you may have. These two steps are intended to provide early feedback that can greatly facilitate the production of the report and minimize the need for extensive revisions later.

Awardee is responsible for responding to all requested revisions to the Draft Final Report in the Final Report. Any requested revisions not incorporated in the Final Report should be discussed with the Program Administrator. Any agreed upon revisions must be made before the \$5,000 withhold for the Final Report is released.

If proprietary/confidential information is needed in the report to fully communicate the research findings, all such information must be confined to a proprietary appendix, which will be protected and not released to the public. The remainder of the report must be non-proprietary and authorized unrestricted public distribution.

EXHIBIT E

EISG REIMBURSEMENT INVOICE

AWARDEE:		GRANT NUMBER:	
PAYABLE TO:			
ADDRESS:		Optional Awardee Tracking Number(s):	
INVOICE PERIOD (mm/dd/yy): Start of Period: End of Period:			
1. PERSONNEL SALARIES/WAGES (provide names and job titles)	Total Hours	Hourly Rate	Expenditures This Period
Subtotal Salaries/Wages			
Fringe Benefits			
Subtotal Salaries/Wages and Fringe Benefits:			
2. CONSULTANT/CONTRACTUAL SERVICES <i>(itemized contracted services)</i>			
Subtotal Consultant/Contractual Services:			
3. OTHER PROJECT EXPENSES			
a. Travel <i>(combine all travel expenses on this line)</i>			
b. Facilities Lease / Modification Expenses			
c. Equipment Rental / Use Fees			
d. Major Equipment Purchases (items costing over \$5,000)		N/A	
e. Materials/Supplies/Equipment/Misc. (total lines e.(1).–e.(5))			
(1) Total for material items valued under \$100			
(2)			
(3)			
(4)			
(5)			
Subtotal Other Project Expenses:			
4. Total Direct Costs (1 - 3)			
5. Indirect Costs			
6. TOTAL INVOICE COSTS (4 + 5) TO BE PAID			
Certification: I certify that all expenditures reported (or payment requested) are for appropriate purposes and in accordance with the provisions of the Grant Agreement.			
Type: Name, Title & Phone or Email			
SIGNATURE:		DATE:	